



CHARLESTON DISTRICT

Regulatory Program

A decorative graphic consisting of a light blue arc starting from the top left and curving towards the right, and a darker blue triangle pointing upwards from the bottom right corner.

Tina B. Hadden

Chief, Regulatory Division

**U.S. Army Corps of Engineers
Charleston District**

Topics

1. Permit authorities and definitions
2. Areas of jurisdiction
3. Pertinent regulations
4. Permit Process

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- 1. Permit authorities and definitions**
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Authorities

The Corps issues permits pursuant to:

Section 10 of the Rivers and Harbors Act of 1899

Section 404 of the Clean Water Act

40CFR230 Section 404(b)(1) Guidelines for Specification of Disposal Sites for Dredged or Fill Material [404(b)(1) Guidelines]

Section 103 of the Marine Protection Research and Sanctuaries Act of 1972

Section 10 of the Rivers and Harbors Act of 1899

prohibits the unauthorized obstruction or alteration of any navigable water of the United States **unless you have a permit from the Corps of Engineers**

Examples of obstructions or alterations are:

- construction of any structure in or over any navigable water of the United States,
- the excavating from or depositing of material or
- the accomplishment of any other work affecting the course, location, condition, or capacity of such waters

Navigable Waters of the United States

Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

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Atlantic Ocean



Charleston Harbor



Tidal Creek



Atlantic Intracoastal Waterway



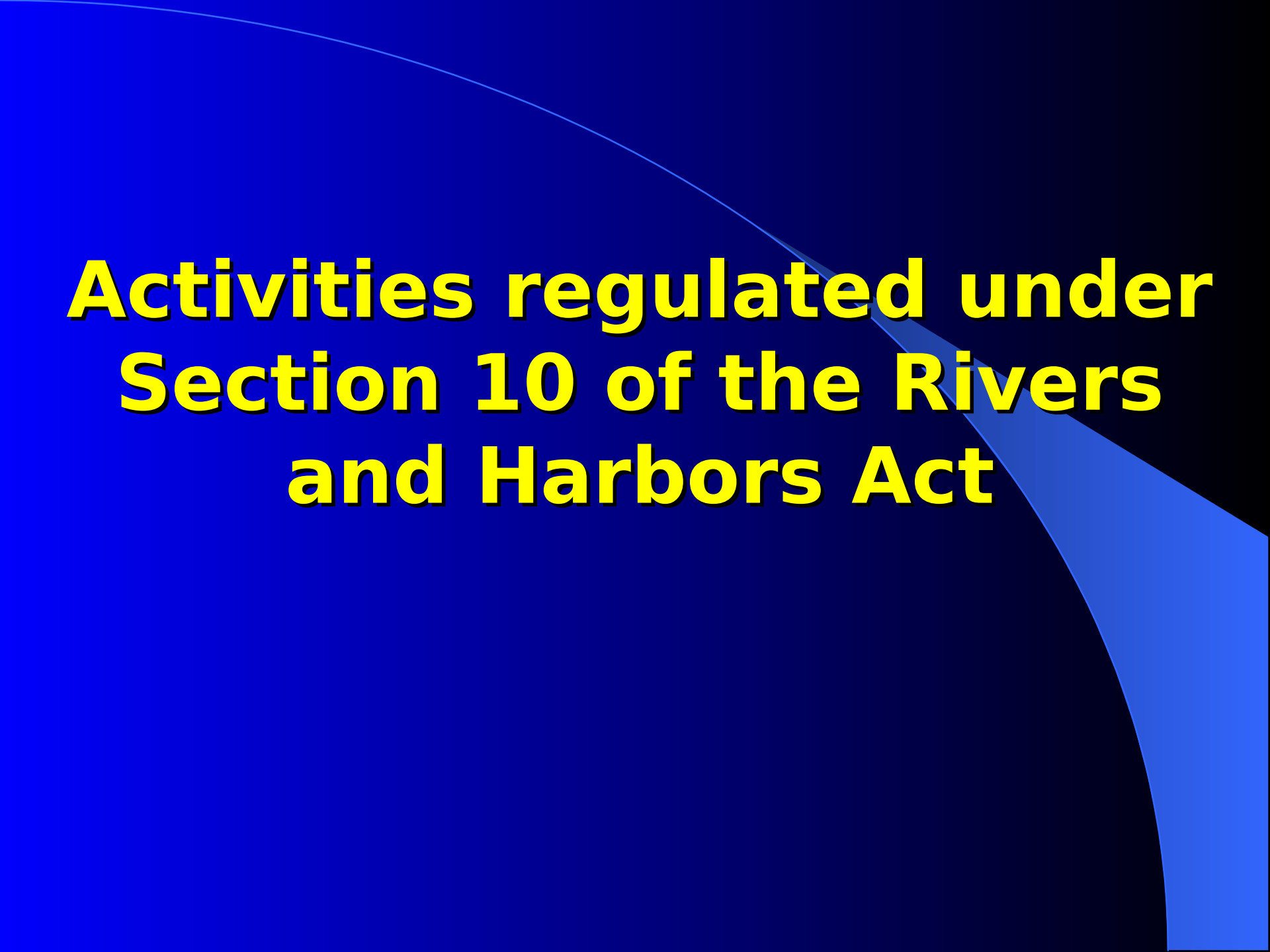
Congaree River



Lake Murray



Lake Wateree



Activities regulated under Section 10 of the Rivers and Harbors Act



Beach Nourishment



Dredging



Excavation



Wando Terminal



Docks



Bulkhead



Shoreline Protection



Marinas

Overhead Powerlines



Section 404 of the Clean Water Act

authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits, after notice and opportunity for public hearing, for the **discharge of dredged or fill material into the waters of the United States** at specified disposal sites. (See 33 CFR Part 323.)

Waters of the United States

- All Navigable Waters of the U.S.;
- All interstate waters including interstate wetlands;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - ❖ Which are or could be used by interstate or foreign travelers for recreational or other purposes; or from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or,
 - ❖ Which are used or could be used for industrial purpose by industries in interstate commerce.

Waters of the United States - *continued*

- All impoundments of waters otherwise defined as waters of the United States under the definition;
- Tributaries of waters;
- The territorial seas;
- Wetlands adjacent to waters (other than waters that are themselves wetlands);
- Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA **are not** waters of the United States.
- Waters of the United States **do not include** prior converted cropland.

Waters of the United States

All Navigable Waters



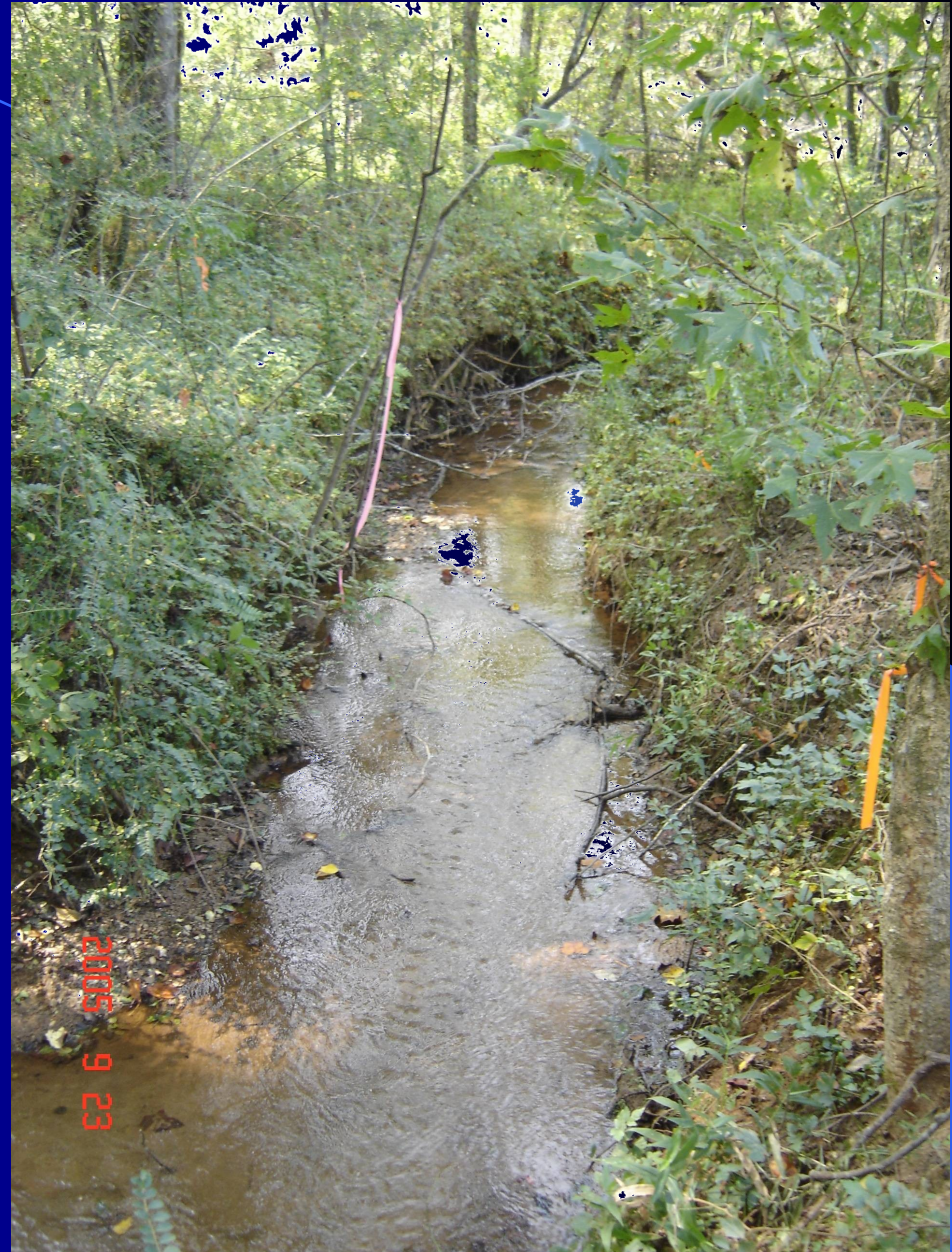


Bottomland Hardwoods

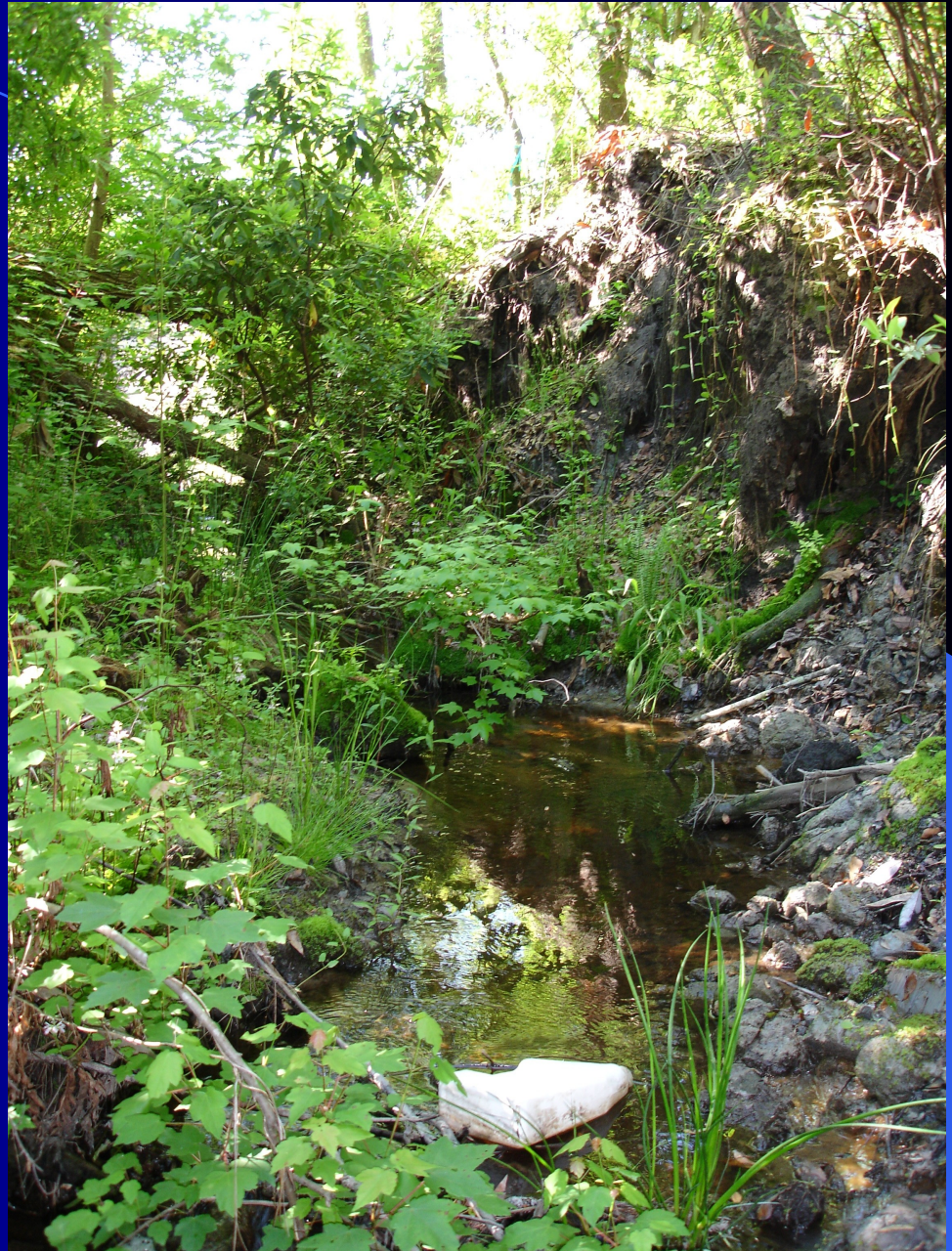


Trout Stream

Riffle and Pool Complex



Small Tributaries





Streams



Stream and adjacent Flood Plain



Jurisdictional Ditch



Jurisdictional Ditch

Wetlands

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Bottomland Hardwood



Bottomland Hardwood



Butterweed in Bottomland Hardwood



Saltmarsh



Saltmarsh



Emergent Wetland



Forested Wetland converted to herbaceous



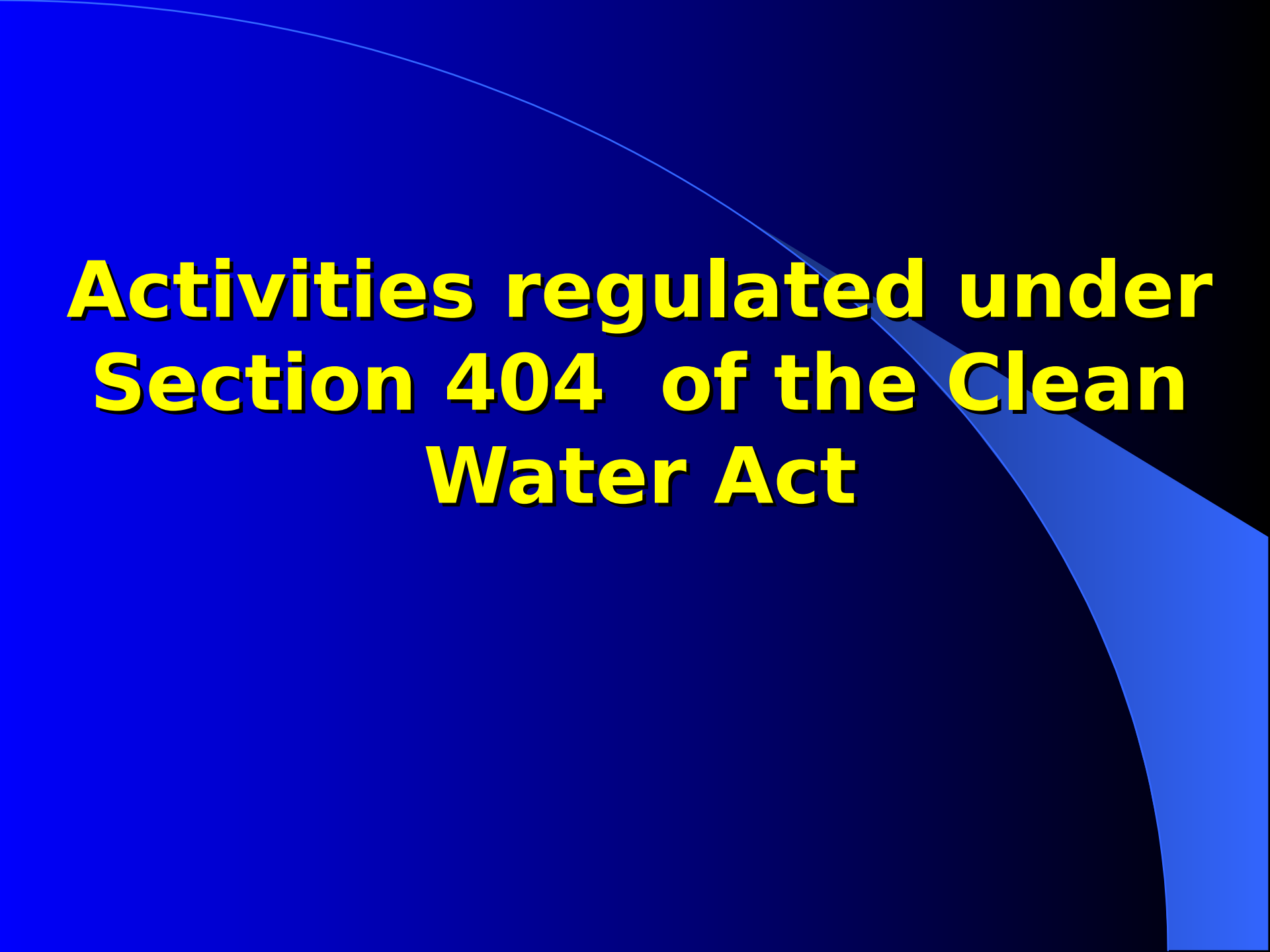
Floodplain



Dry Bottomland Hardwood



Old Pasture Land



Activities regulated under Section 404 of the Clean Water Act



Boat Ramps



Shoreline Protection



Beach Nourishment



Fill for development



Landclearing



Landclearing



Roads



Highways



Topics

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Related Laws

- ① **Coastal Zone Management Act**
- ① **Section 401 of the Clean Water Act**
- ① **National Historic Preservation Act of 1966**
- ① **Endangered Species Act of 1973**
- ① Fish & Wildlife Act of 1956
- ① Migratory Marine Game-Fish Act
- ① Fish & Wildlife Coordination Act
- ① Clean Air Act
- ① Resource Conservation & Recovery Act of 1976
- ① Comprehensive Environmental Response Compensation and Liability Act of 1980
- ① Essential Fish Habitat

The Permit Process Involves:

- **Public Interest Review**
- **404 (b)(1) Guidelines**
- **National Environmental Policy Act**

PUBLIC INTEREST REVIEW FACTORS

conservation

economics

aesthetics

general environmental

concerns

wetlands

historic properties

fish and wildlife values

flood hazards

floodplain values

land use

navigation

shore erosion and

accretion

recreation

water supply

and conservation

water quality

energy needs

safety

food and fiber

production mineral

needs

considerations of

property ownership

and, in general,

the needs and welfare

of the people

404(b)(1) Guidelines

No discharge of fill material shall be permitted if

- there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem,
- it violates State water quality or toxic effluent standards; jeopardizes the continued existence of an endangered or threatened species; or violates the protection of any marine sanctuary
- it will cause or contribute to significant degradation of the waters of the United States.
- appropriate and practicable steps have not been taken which will minimize potential adverse impacts on the aquatic ecosystem.

The National Environmental Policy Act of 1969

(“NEPA” P.L. 91-190; 42 U.S.C. 4321)

Encourages and facilitates public involvement in decisions which affect the quality of the human environment.

Requires agencies to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects upon the quality of the human environment.

Requires agencies to avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

Types of Permits

- **Individual Permit (Standard Permits)**
- **Letters of Permission**
- **General Permits**

Regional Permits

Nationwide Permits

Programmatic Permits

Topics

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4. **Permit Process**

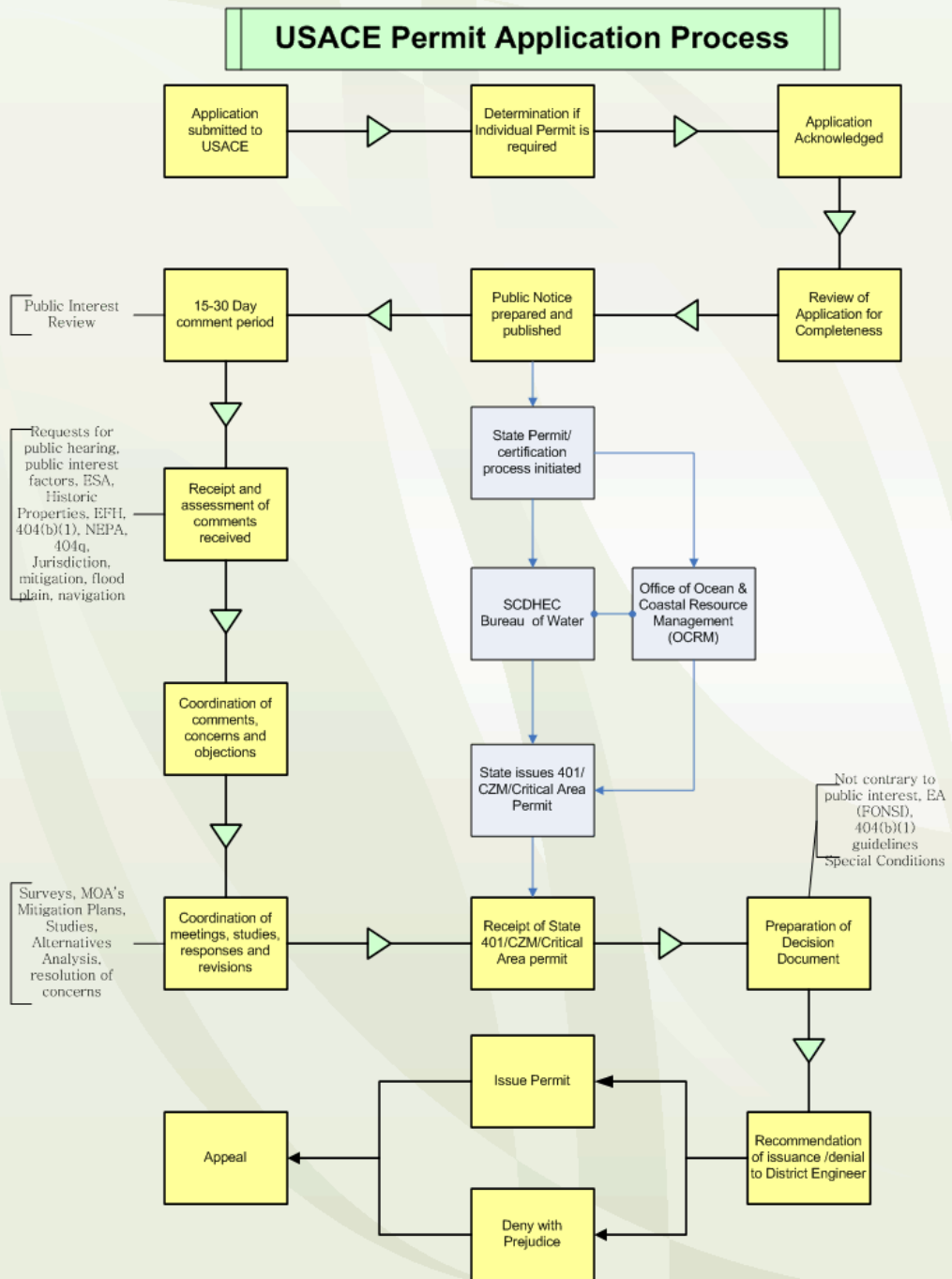
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Individual Permits

The Permit Process

PERMIT PROCES S FLOW CHART

(see
handout)



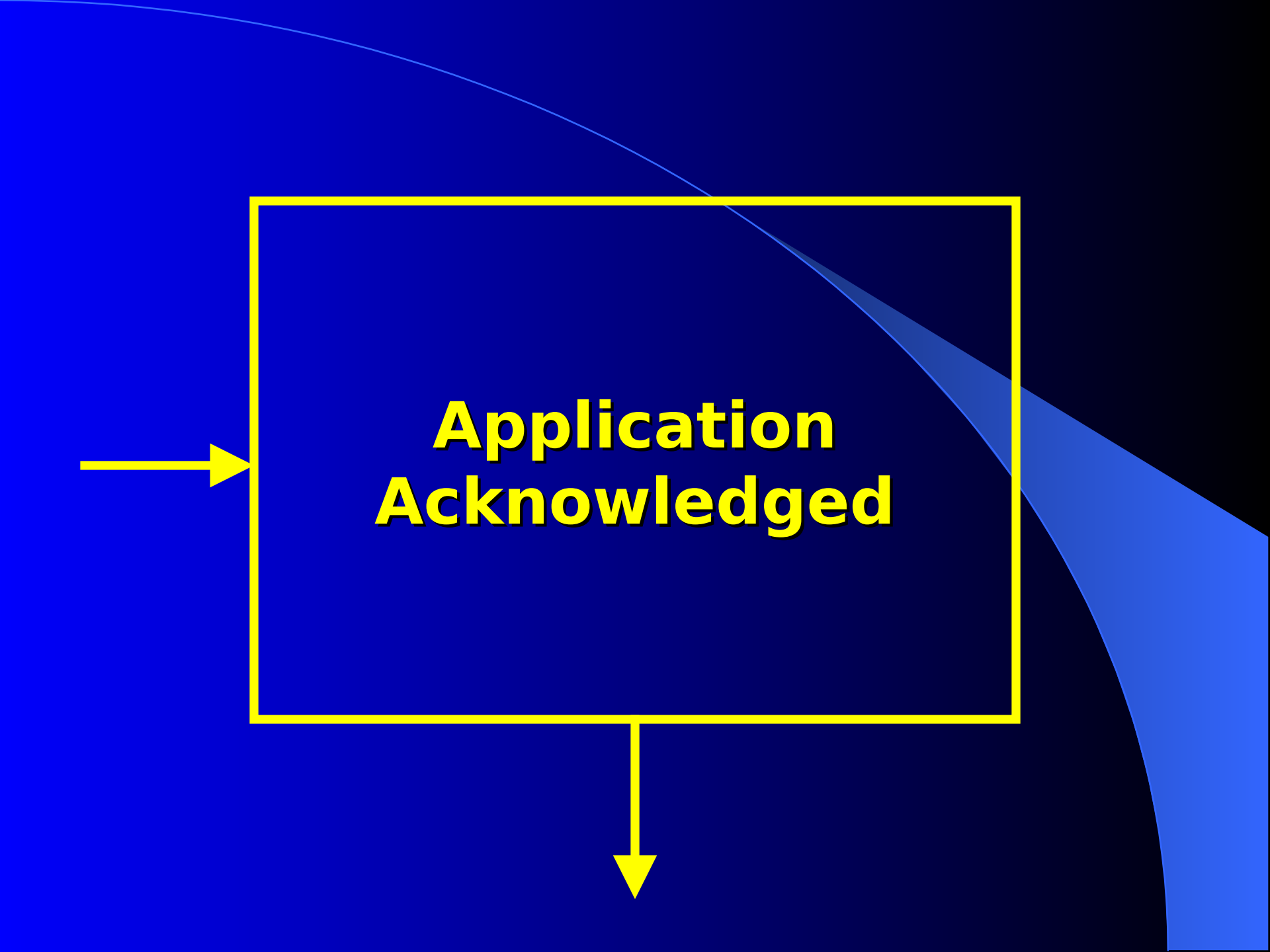


**Application
Submitted to
USACE**



**Determination if
Individual Permit
is Required**

The diagram features a central rectangular box with a thick yellow border. Inside the box, the text "Determination if Individual Permit is Required" is written in a bold, yellow, sans-serif font, arranged in three lines. A yellow arrow points horizontally from the left towards the left side of the box. Another yellow arrow points horizontally from the right side of the box towards the right. The background is a solid dark blue. A faint, thin blue arc is visible in the upper left quadrant. A large, semi-transparent blue shape, resembling a stylized arrow or a wedge, points from the right side of the box towards the right edge of the frame.



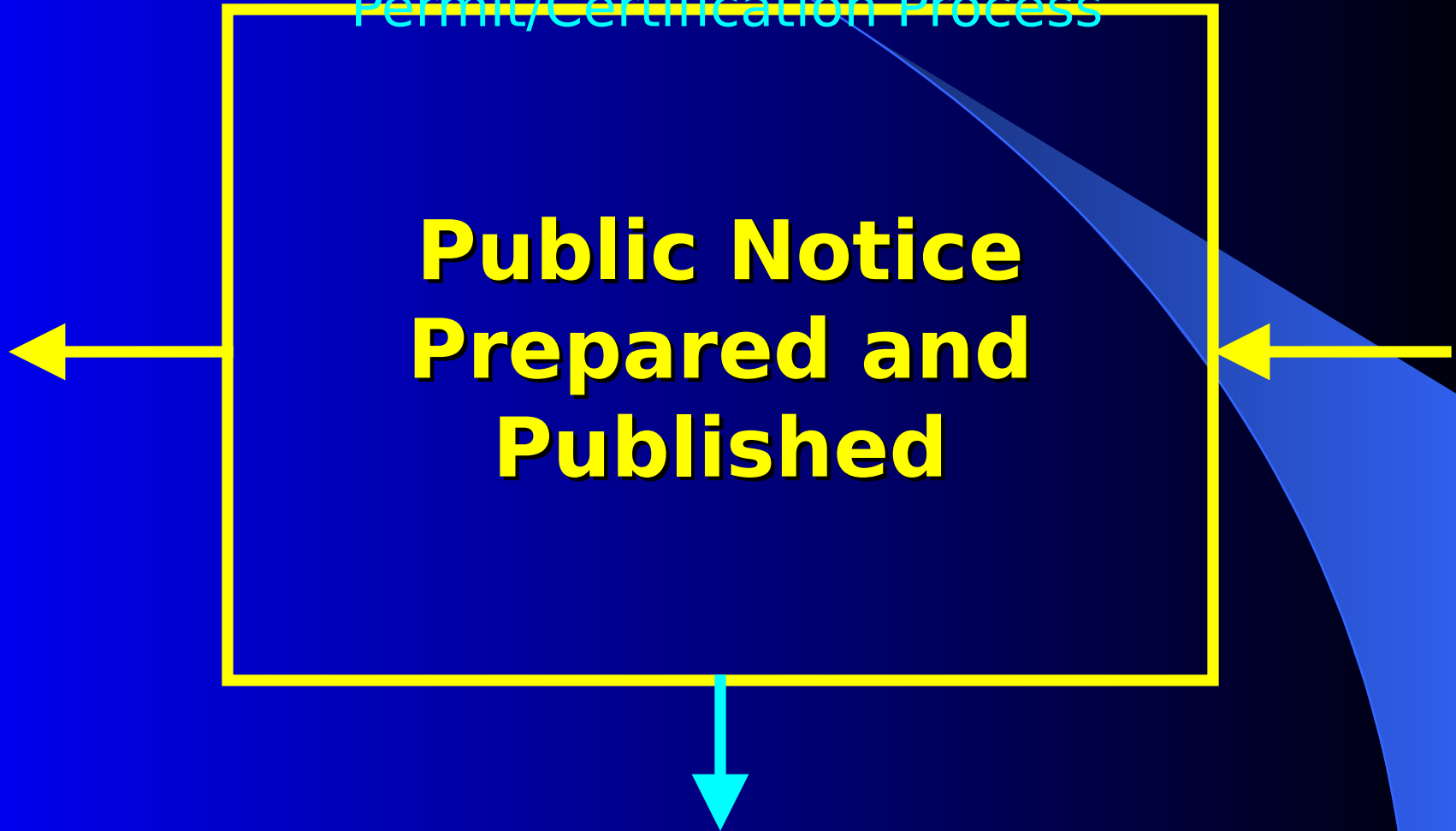
**Application
Acknowledged**

**Review of
Application for
Completeness**

Commence Parallel and
Simultaneous State
Permit/Certification Process

**Public Notice
Prepared and
Published**

State Permit/Certification
Process



Commence Public Interest
Review

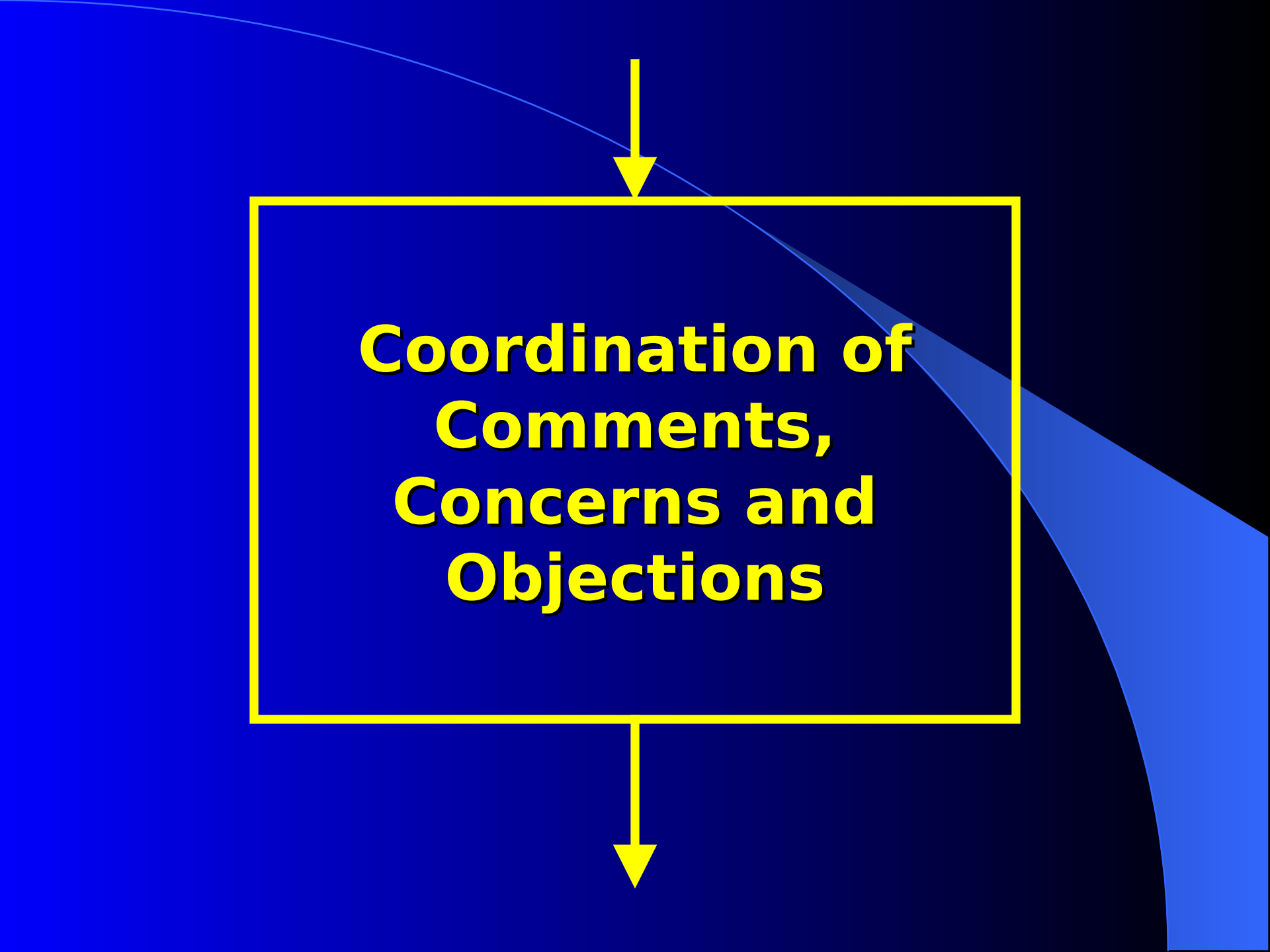
**15 - 30 Day
Comment Period**



Requests for public hearing;
public interest factors; ESA;
Historic Properties; EFH;
404(b)(1);
NEPA;
404(q);
Jurisdiction;
Mitigation;
flood plain;
navigation,
etc.

A flowchart diagram with a central yellow-outlined box containing the text 'Receipt and Assessment of Comments Received'. A yellow arrow points down into the top of the box from the list of factors on the left. Another yellow arrow points down from the bottom of the box. A blue curved shape is on the right side of the box.

**Receipt and
Assessment of
Comments
Received**



**Coordination of
Comments,
Concerns and
Objections**

Surveys; MOA's; Mitigation
Plans;

Studies; Alternatives Analysis;

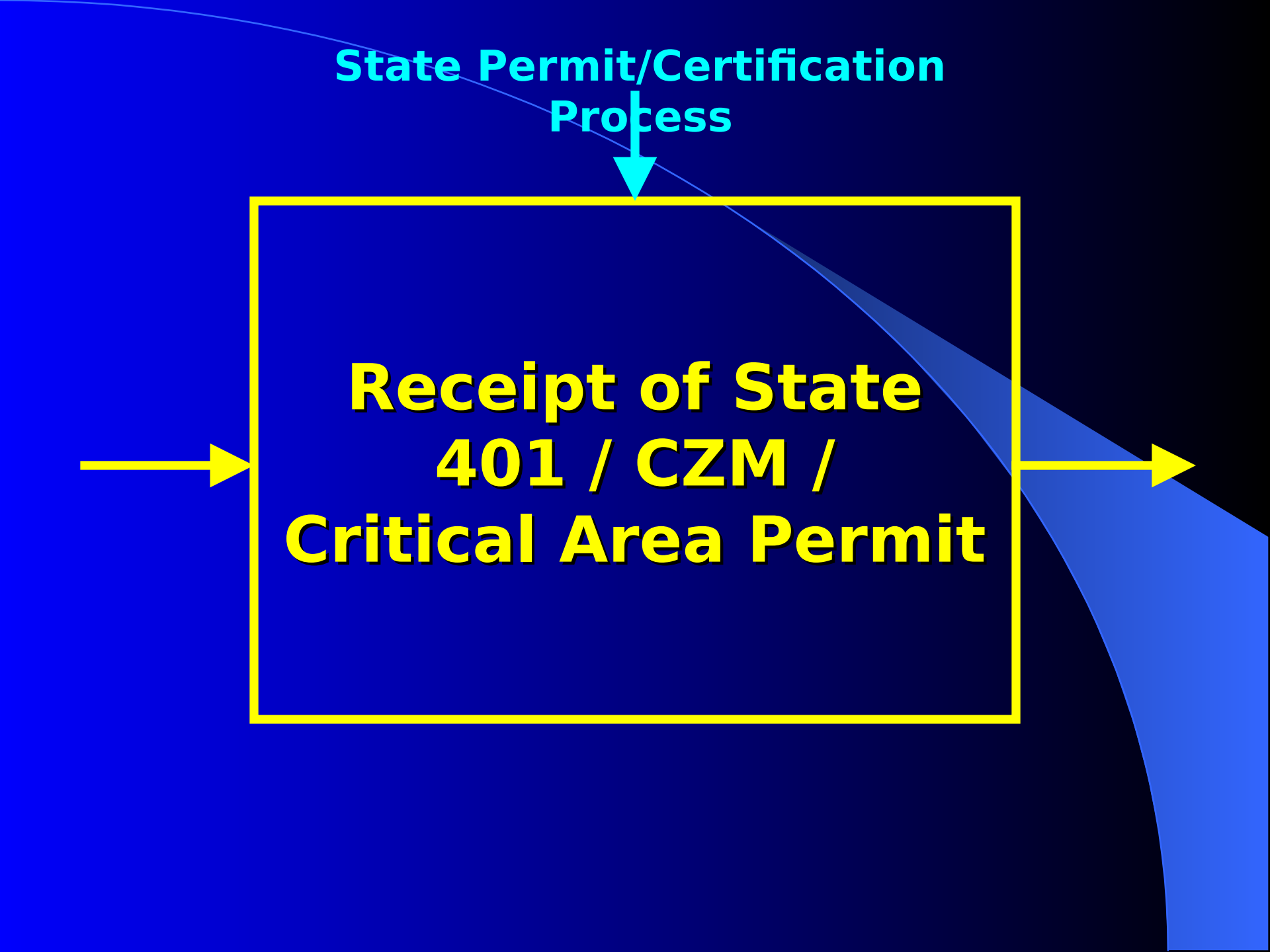
Resolution of Concerns, etc.



**Coordination of
Meetings, Studies,
Responses and
Revisions**



**State Permit/Certification
Process**



```
graph TD; A[State Permit/Certification Process] --> B[Receipt of State 401 / CZM / Critical Area Permit]; B --> C[ ]; style C fill:#0000FF,stroke:#0000FF,stroke-width:4px
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The diagram illustrates a process flow. At the top, the text 'State Permit/Certification Process' is written in red. A red arrow points down from this text to a large yellow rectangular box. Inside this box, the text 'Receipt of State 401 / CZM / Critical Area Permit' is written in yellow. A yellow arrow points from the left into the box, and another yellow arrow points from the right side of the box to a solid blue vertical bar on the far right. A thin red curved line starts from the top left and extends towards the right side of the box.

**Receipt of State
401 / CZM /
Critical Area Permit**

Not Contrary to Public Interest; EA
(FONSI); 404(b)(1) Guidelines; Special
Conditions


```
graph TD; A[Not Contrary to Public Interest; EA (FONSI); 404(b)(1) Guidelines; Special Conditions] --> B[Preparation of Decision Document]; B --> C[ ];
```

**Preparation of
Decision Document**

Decision Making Process

- Public Interest Factors
- Cumulative Impacts
- Secondary Impacts
- Compliance with the Endangered Species Act
- Compliance with the National Historic Preservation Act

Decision Making Process - *continued*

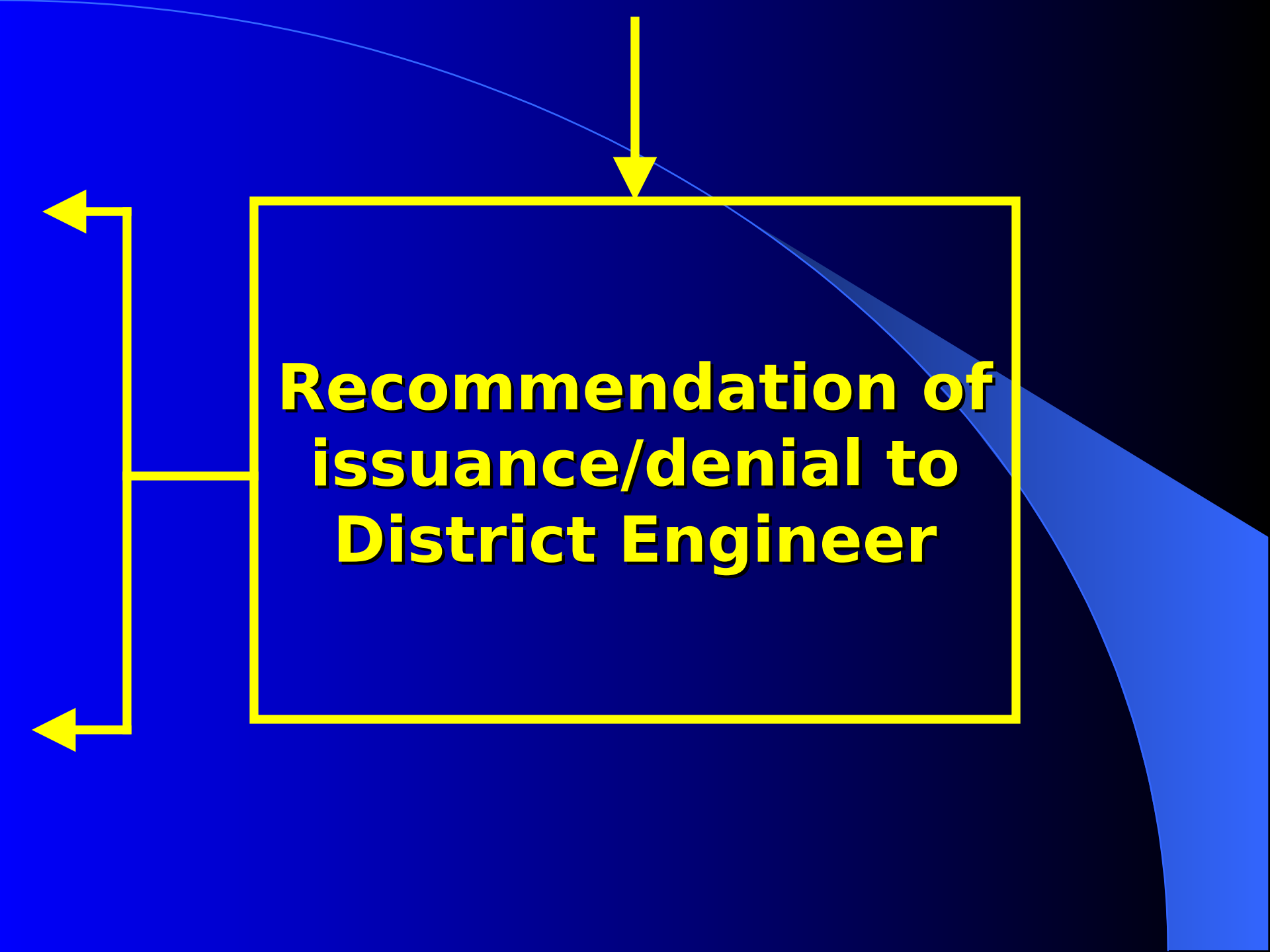
- Magnuson-Stevens Fishery Conservation Management Act (*Essential Fish Habitat*)
- Compliance with all applicable Memoranda of Agreement
- Impacts to Federal Projects
- Any special requirements (artificial reefs, powerlines, etc)
- Navigation
- Clean Air Act Conformity

Decision Making Process - *continued*

- Compliance with the 404(b)(1) Guidelines including (but not limited to):
 - Alternatives
 - Avoidance
 - Minimization
 - Mitigation
 - Sediment Quality
- Compliance with NEPA

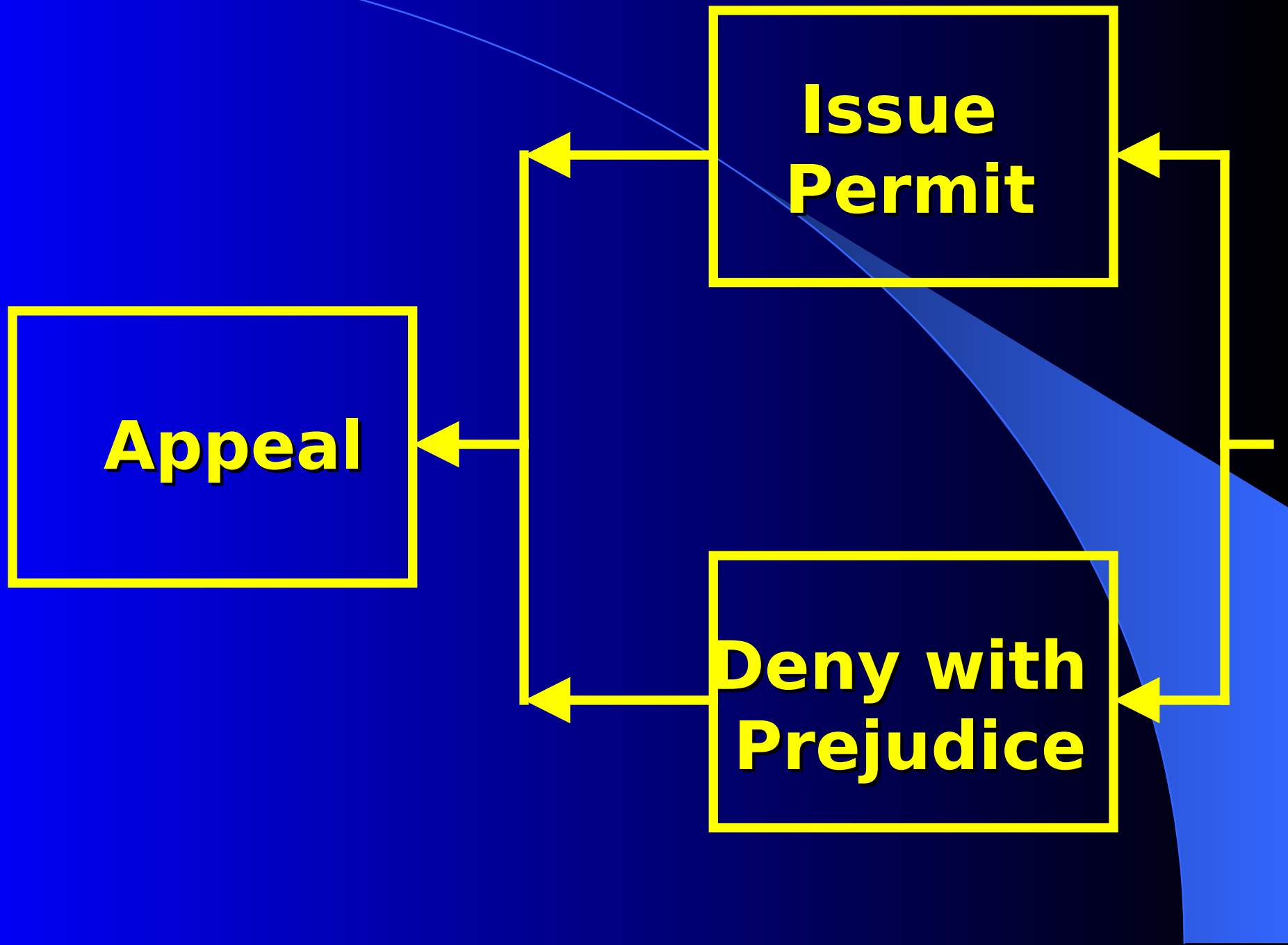
Decision Document

- Statement of Findings
- Environmental Assessment
- FONSI
- 404(b)(1) Compliance Documentation
- Must address all other pertinent laws and regulations



The diagram features a central yellow-outlined rectangle containing the text "Recommendation of issuance/denial to District Engineer". A yellow arrow points down into the top of the rectangle. A yellow line extends from the left side of the rectangle, with two arrows pointing left, one at the top and one at the bottom. A blue curved arrow starts from the top right of the rectangle and points towards the top left. A blue curved arrow starts from the right side of the rectangle and points towards the bottom right.

**Recommendation of
issuance/denial to
District Engineer**



General

Permits

- Regional Permits
- Nationwide Permits

Regional General Permits

- **2000-14-001 - SC Office of Ocean and Coastal Resource Management** – certain activities in the Critical Area of the Coastal Zone
- **2000-14-002 - SC Department of Transportation** – certain activities performed by SCDOT associated with replacement of existing roads.
- **2002-14-001 - SC Electric and Gas** – certain activities on Lake Murray
- **2002-14-002 - SC Public Service Authority** – certain activities on Lakes Marion and Moultrie
- **2002-14-004 - Duke Power Company** – certain activities on those lakes owned and operated by Duke Power Company

Contact Information

US Army Corps of Engineers
Charleston District - Regulatory Program:
PROJECT MANAGER of the DAY (843) 329-8044

**SC Dept of Health & Environmental
Control**

**Office of Ocean & Coastal Resource
Management:**
PROJECT MANAGER of the DAY (843) 747-4323
x101

**Bureau of Water - 401 Water Quality
Certification:**

WEB SITES

US Army Corps of Engineers

Charleston District - Regulatory Program:

www.sac.usace.army.mil/permits

Headquarters - Regulatory Program:

**www.usace.army.mil/inet/functions/cw/ce
[cwo/reg](http://www.usace.army.mil/inet/functions/cw/ce)**

**SC Dept of Health & Environmental
Control**

**Office of Ocean & Coastal Resource
Management:**

www.scdhec.net/environment/ocrm



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